

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

AUG 06 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHARLES HARRISON BARBEE,

Defendant - Appellant.

No. 07-35057

D.C. No. CR-96-00258-WFN

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of Washington  
Wm. Fremming Nielsen, Senior District Judge, Presiding

Submitted July 22, 2008<sup>\*\*</sup>

Before: B. FLETCHER, THOMAS and WARDLAW, Circuit Judges.

Charles Harrison Barbee appeals pro se from the district court's order denying his Rule 60(b) motion to vacate his criminal judgment. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

---

<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The district court did not abuse its discretion in denying Barbee's motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b). Rule 60 is an improper vehicle to challenge a criminal conviction. *See* Fed. R. Civ. P. 1. Moreover, Barbee's motion was untimely. *See* Fed. R. Civ. P. 60(c)(1) (requiring that a Rule 60(b) motion be filed "within a reasonable time").

**AFFIRMED.**